

AUG 03 2006

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

ARIEL ALEJANDRO MORALES
MONTIEL; et al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 05-72657

Agency Nos. A75-753-747
A75-753-748
A75-753-749

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 24, 2006 **

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Ariel Alejandro Morales Montiel, his wife, Gloria Ramirez, and their
daughter Maricela Morales Ramirez, natives and citizens of Mexico, petition pro

* This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

se for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reconsider its prior decision dismissing as untimely their appeal from an immigration judge's denial of cancellation of removal. We deny the petition for review.

Petitioners have failed to address, and therefore have waived any challenge to, the BIA's determination that there was no error of law or fact in its prior order dismissing Petitioners' appeal as untimely. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues which are not specifically raised and argued in a party's opening brief are waived). We do not consider Petitioners' remaining arguments because their failure to timely file their notice of appeal before the BIA is dispositive.

We also do not consider the new evidence attached to Petitioners' opening brief. *See* 8 U.S.C. § 1252(b)(4)(A) ("the court of appeals shall decide the petition only on the administrative record on which the order of removal is based.").

PETITION FOR REVIEW DENIED.